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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

Steven L. Sapp,	)	No. CV 05-050-TUC-FRZ
Petitioner,	)	
vs.	)	<b>ORDER</b>
Charles Ryan, et al.,	)	
Respondents.	)	
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Before the Court for consideration is the Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254 filed by Petitioner Steven L. Sapp in this action and the Report and Recommendation of the Magistrate Judge, recommending the dismissal of the Petition.

This matter was referred to Magistrate Judge D. Thomas Ferraro pursuant to Rules 72.1 and 72.2 of the Local Rules of Civil Procedure for further proceedings and report and recommendation.

Magistrate Judge Ferraro issued his Report and Recommendation, recommending that the Court enter an order denying the Petition for Writ of Habeas Corpus and dismissing this action in its entirety as untimely under the Antiterrorism and Effective Death Penalty Act of 1996, 28 U.S.C. § 22543(d)(“AEDPA”), based on Petitioner’s failure to establish entitlement of statutory or equitable tolling.

The Report and Recommendation sets forth the factual and procedural history of Petitioner’s state court proceedings and the conviction at issue.

1           Petitioner seeks review on 12 separate grounds of his conviction in Cochise County  
2 Superior Court of Arizona, case number CR-98000325, in which Petitioner was convicted  
3 by jury on March 24, 1999 of (1) possession for sale of a dangerous drug  
4 (methamphetamine), a class 2 felony; (2) possession of drug paraphernalia, a class 6 felony;  
5 and (3) driving on a suspended license, a class 1 misdemeanor, all which occurred on July  
6 6, 1998.

7           Based on a prior conviction, Petitioner was sentenced on June 14, 1999 to a nine-year-  
8 three-month prison term on the drug possession charge, a concurrent one year and nine  
9 months on the paraphernalia possession charge. He also received a consecutive one year  
10 probation term on the misdemeanor charge.

11           As set forth in detail in the Report and Recommendation, Petitioner has not  
12 demonstrated that an extraordinary circumstance prevented him from timely filing, and  
13 therefore, Petitioner failed to reach the high threshold to establish entitlement to statutory or  
14 equitable tolling.

15           Petitioner filed his objections to the Report and Recommendation pursuant to 28  
16 U.S.C. §636(b), arguing both that the present petition and accompanying habeas petitions<sup>1</sup>  
17 were timely and also “that an extraordinary circumstance prevented him from timely filing  
18 as he diligently pursued his rights,” challenging the state court rulings on both procedural and  
19 substantive grounds, alleging innocence and miscarriage of justice.

20           The Court finds, after consideration of the matters presented and an independent  
21 review of the record herein, that the Petition should be denied and this action be dismissed  
22 as recommended.

23           Based on the foregoing,  
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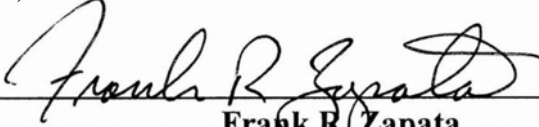
26           <sup>1</sup>Petitioner filed CV 05-050-TUC-FRZ; CV 05-051-TUC-FRZ and CV 05-052-TUC-  
27 FRZ on January 27, 2005, challenging the unrelated, unconsolidated convictions in Cochise  
28 County Superior Court in case numbers CR-98000325, CR-98000452 and  
CR-97000484(B), respectively.

1 IT IS ORDERED that Magistrate Judge Ferraro's Report and Recommendation [Doc.  
2 25] is hereby ACCEPTED AND ADOPTED as the findings of fact and conclusions of law  
3 by this Court;

4 IT IS FURTHER ORDERED that the Petition for Writ of Habeas Corpus is DENIED;

5 IT IS FURTHER ORDERED that judgment be entered accordingly.  
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7 DATED this 14<sup>th</sup> day of September, 2011.  
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10 **Frank R. Zapata**  
11 **Senior United States District Judge**  
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